

REMARKS / ARGUMENTS

In complete response to the Office Action dated July 28, 2011, on the above identified application, reconsideration is respectfully requested. Claims 15-18 are pending in this application.

Claim Rejections Under 35 U.S.C. § 103:

Claims 15 - 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bianchi et al '482 in view of Hill et al. '778, and further in view of Halimi et al. '208. Applicants submit that claims 15 – 18 are not unpatentable over Bianchi et al '482 in view of Hill et al. '778, and further in view of Halimi et al. '208.

The Examiner notes that Bianchi et al. '482 discloses compressors that are driven by turbines, and does not disclose the use of an electric motor with variable speeds and windings. It is also recognized that Bianchi et al. '482 fails to mention that the start up device runs faster during startup than in normal state.

Hill et al. '778 is introduced to remedy this first deficiency. The present invention, as well as that disclosed in Bianchi et al. '482 pertains to air separation by means of rectification columns. Hill et al. '778 pertains to a method for purifying a fluid by using a molecular sieve. The Examiner argues that this is simply another means of separating air, and hence analogous art. The mechanisms and methods in Hill et al. '778 are utterly different from those of the instant invention (as well as Bianchi et al. '482) not the least of which is condensation of air at cryogenic temperatures, then sophisticated distillation techniques to separate the components of this liquid air. One skilled in the art would not consider combining the teachings of such disparate art.

Halimi et al. '208 is even more disparate, as it pertains to the turbocharging of internal combustion engines. Applicants fail to see any way that Halimi et al. '208 pertains to the separation of air, or any reason that the skilled artisan would think to combine these teachings with the other references. Applicants

respectfully submit that these three references are not compatible, and the skilled artisan would find no reason to combine them.

The Examiner states that the test is “a prior art reference must be either in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention”. As argued above, Applicants feel that these three references are totally incompatible. One skilled in the art would recognize this and the suggestion would be not to bother combining three entirely different, and apparently irreconcilable, approaches to achieve something utterly non-obvious.

While it is universally acknowledged that the recent KSR decision has affected the obviousness standard, the Supreme Court still requires a degree of “predictability” in this determination. Simply because one might speculate, in hindsight, that something was “obvious to try” does not satisfy a base level of predictability on the part of the skilled artisan.

Applicants assert that an individual of ordinary skill in the art of cryogenic distillation and separation processes, when presented with the three references at issue, would see that their basic process details and the thermodynamic mechanisms with which they operate are not compatible, and would see no reason to seek to combine them in any fashion.

Hence it is believed that this rejection is improper, with regard to independent claim 15, as well as dependent claims 16 – 18, and should be vacated.

CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the Examiner believe a telephone call would expedite the prosecution of the application, he is invited to call the undersigned attorney at the number listed below.

Respectfully submitted,

Date: **October 17, 2011**

/Elwood Haynes/
Elwood Haynes, Reg. No. 55,254

Air Liquide US LLC
2700 Post Oak Blvd., 18th Floor
Houston, TX 77056
Phone: 713-624-8954
Fax: 713-624-8950